

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
	)	
	)	
<b>v.</b>	)	
	)	<b>2:18-cr-00193-JDL-2</b>
<b>ABOUBACAR CONGO,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER ON DEFENDANT’S MOTION FOR EARLY DISCLOSURE OF  
JENCKS MATERIAL**

Aboubacar Congo is charged with possessing a controlled substance with the intent to distribute, in violation of 21 U.S.C.A. § 841(a)(1) (West 2019), conspiring to distribute a controlled substance in violation of 21 U.S.C.A. § 846 and § 841(a)(1), and maintaining a drug-involved premises in violation of 21 U.S.C.A. § 856(a)(2). Congo requests that the Court enter an order that compels the Government to provide Jencks Act witness materials three weeks before jury selection. The Government objects to the motion. For the reasons that follow, the motion is **DENIED**.

The Jencks Act provides that in a criminal prosecution, “no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) shall be the subject of subpoena [sic], discovery, or inspection until said witness has testified on direct examination in the trial of the case.” 18 U.S.C.A. § 3500(a) (West 2019). The First Circuit has made clear that “[a] court may not compel the disclosure of statements of Government witnesses before the conclusion of their direct testimony.” *U.S. v.*

*Grandmont*, 680 F.2d 867, 874 (1st Cir. 1982); *see also U.S. v. Owens*, 933 F. Supp. 76, 80 (D. Mass. 1996) (“[T]he overwhelming majority of cases—including cases from the First Circuit—adhere to a rule that is nearly absolute: district court judges may not, over the government’s objection, compel pretrial disclosure of nonexculpatory Jencks Act material earlier than the close of a witness’s testimony on direct examination.”). Accordingly, it is not within this Court’s discretion to compel early disclosure of Jencks Act material over the Government’s objection as requested by the Defendant.

For the foregoing reasons, Congo’s Motion for Early Disclosure of Jencks Material (ECF No. 158) is **DENIED**.

**SO ORDERED.**

**Dated this 26th day of August, 2019**

**/s/ JON D. LEVY**  
**CHIEF U.S. DISTRICT JUDGE**